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Before the
FEDERAL COMMUNICATIONS COMMISSION **RECEIVED**
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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

In the Matter of)
)
South Slope Cooperative Telephone Company)
Amana Colonies Telephone Company,)
d/b/a HickoryTech)
and)
Heartland Telecommunications Company of Iowa)
)
Joint Petition for Waiver of the Definition of)
“Study Area” in Part 36, Appendix-)
Glossary of the Commission’s Rules)

CC Docket No. 96-45 /

**COMMENTS
OF THE
UNITED STATES TELECOM ASSOCIATION**

The United States Telecom Association (“USTA”)¹ hereby submits its comments in the above captioned proceeding² in support of the petitioners’ requests for waiver of the definition of “study area” in Part 36 of the Commission’s rules.³

¹ The United States Telecom Association, formerly the United States Telephone Association, is the nation’s oldest trade organization for the local exchange carrier industry. USTA represents more than 1200 telecommunications companies worldwide that provide a full array of voice, data and video services over wireline and wireless networks. USTA members support the concept of universal service and are leaders in the deployment of advanced telecommunications capabilities to American and international markets.

² The Commission established the pleading cycle in this proceeding in its *Public Notice* in CC Docket No. 96-45, DA 01-232, released January 30, 2001 (“Notice”). The Joint Petition for Extended Study Area Waiver (“Petition”) was filed on December 13, 2000.

³ 47 C.F.R. Part 36 Appendix-Glossary.

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I. BACKGROUND

The *Petition* involves the sale of the Amana, Iowa exchange (serving approximately 1,500 access lines) now owned by Amana Colonies Telephone Company, d/b/a HickoryTech, an Iowa corporation, to South Slope Cooperative Telephone Company, an Iowa telephone company. The Amana exchange is presently part of a consolidated study area that also contains eleven exchanges (approximately 13,300 access lines) operated by Heartland Telecommunications Company of Iowa (“Heartland”), another subsidiary of HickoryTech.⁴ Both Amana Colonies and Heartland are Issuing Carriers in the National Exchange Carrier Association (NECA) interstate access tariffs, are cost carriers, and have never elected to operate pursuant to price cap regulations.

South Slope presently serves five exchanges (approximately 11,300) access lines within its existing Iowa study area. South Slope is an Issuing Carrier in the NECA interstate access tariffs and receives settlements from NECA on an average schedule basis. South Slope has never elected to operate pursuant to price cap regulation and will continue to operate as an average schedule carrier after its acquisition of the Amana assets. The Petitioners seek a grant of their request for waiver of the Commission’s study area rules in order that the sale of the Armana exchange be allowed to proceed to completion.⁵

⁴ *Petition* at 2.

⁵ *Id.* at 6.

USTA believes that Petitioners have demonstrated good cause for grant of their requested waivers, and, as explained further below, urges the Commission to expeditiously grant their requests.

II. THE COMMISSION'S TESTS FOR GRANTING A STUDY AREA WAIVER HAVE BEEN MET

The Commission's rules state that "(s)tudy area boundaries shall be frozen as they are on November 15, 1984."⁶ However, the Commission has granted numerous waivers from this rule where it determined that "special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest."⁷ The Commission normally applies a three prong standard in these instances.

First, the requested study area boundary change must not have an adverse impact on the Universal Service Fund ("USF").⁸ Petitioners demonstrate that this condition will be met. They note that the Commission's rules require that a carrier acquiring exchanges from a non-affiliated carrier shall receive the same level of per-line support from the USF as the exchanges were eligible for before the transfer. The amount of support they receive from their pre-existing exchanges is not a factor.⁹ Thus, the Commission's own rules lock in compliance with the first standard of its test.

⁶ 47 C.F.R. Part 36, Appendix-Glossary.

⁷ Sully Buttes Telephone Cooperative, Inc. and Qwest Corporation Joint Petition for Waiver of Definition of "Study Area" Contained in Part 36, Appendix-Glossary of the Commission's Rules; and Sully Buttes Telephone Cooperative, Inc. Petition for Waiver of Sections 61.41(c) and (d) and 69.3(3)(11) of the Commission's Rules, *Order*, CC Docket No. 96-45, DA 00-1894, released August 18, 2000, ¶ 8 ("Sully Buttes Order").

⁸ *Id.*

⁹ *Petition* at 4-5, citing 47 C.F.R. §54.305.

Second, the state regulatory commission having jurisdiction over the area to be transferred does not oppose the change.¹⁰ Petitioners cite to the order of the Iowa Utility Board which clearly demonstrates that it does not oppose the sale of the Amana exchange to South Slope or the granting of a study area waiver by the FCC.¹¹

Third, the transfer must serve the public interest. Petitioners explain that as a result of this transaction, the local calling areas for South Slope's customers, as well as the customers for the Amana exchange, will be expanded.¹² In addition, the Iowa Utilities Board found "that South Slope has demonstrated a history of providing local exchange telecommunications service in compliance with the Board's rules and requirements and that it is ready, willing and able to provide comparable service in the Amana exchange."¹³

USTA believes that petitioners have demonstrated that the public interest will be served by allowing the transfers to proceed.

III. EXPEDITED ACTION ON THE REQUESTED WAIVER IS NECESSARY

Petitioners filed their request for waiver of the Commission's rules on December 13, 2000. The Commission's *Notice* sets a pleading cycle under which comments are due by February 19, 2001, and replies by March 1, 2001. If indeed the waiver is found to be in the public interest, as USTA believes it is, then swift action by the Commission can only further serve the public interest. USTA urges the Commission to recognize the importance of acting

¹⁰ *Sully Buttes Order* at ¶ 8.

¹¹ *Petition* at 5.

¹² *Id.*

¹³ *Id.*

quickly to help bring the benefits set forth in the *Petition* to the customers, present and future, of Amana County, Heartland, South Slope and HickoryTech.

IV. CONCLUSION

For the foregoing reasons, USTA urges the Commission to expeditiously approve the waivers of its rules as requested by of Amana County, Heartland, South Slope and HickoryTech in their *Petition*.

Respectfully submitted,

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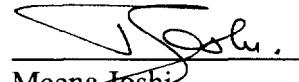
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CERTIFICATE OF SERVICE

I, Meena Joshi, do certify that on February 16, 2001, Comments of The United States Telecom Association was either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the attached service list.



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